EXHIBIT 11

TO PLAINTIFF'S STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT ERIC MONCADA

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

U.S. COMMODITY FUTURES TRADING COMMISSION,	)
	) Deposition of:
Plaintiff,	) HENDRIK BESSEMBINDER
vs.	)
ERIC MONCADA, BES CAPITAL, LLC, and SERDIKA, LLC,	) Civil No. 12-CV-8791
Defendants.	)

December 4, 2013 * 9:08 a.m.

Location:
United States Securities and Exchange Commission
Salt Lake District Office
15 West South Temple, Suite 1800
Salt Lake City, Utah 84101

Reporter: Reporter: Kathy Morgan, CSR, RPR

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Notary Public in and for the State of Utah

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I N D E X

E X H I B I T S

carefully -- sorry -- if I understand your question correctly, you're asking do I know whether the 143 orders includes or excludes large Iceberg orders?

Q. No, not large Iceberg orders. Yeah, Iceberg orders, no one of which would be a large lot order. But in the aggregate, in other words, if a trader wanted to buy or sell 200 contracts, but he entered the orders 20 contracts at a time, would those transactions be included in your 143 large lot orders?

A. No, not for Moncada and not for other traders. The large lot orders were defined by me as orders where the individual order was 200 contracts or more, not an accumulation.

Q. And do you have any idea of what percentage of trades where a trader wanted to accumulate or sell 200 lots or more were accomplished via the Iceberg method?

A. No. As I said, other than the data pertaining to the two firms that Moncada was associated with, I do not have anything that identifies Iceberg orders for me.

Q. And I believe you intimate or you say in your report that the Iceberg method is a more effective method of accumulating or disposing of

large numbers of contracts?

A. In general, what I had to say about Iceberg orders is they can be effective for getting your trades done without moving the price unduly.

Q. So there may have been a large number of traders who entered Iceberg orders for large lots, but did it in small increments that are not captured by this data; is that correct?

A. I think we're using the word "large lot" differently. Again, I'm referring to "large lot" to mean 200 or more contracts in a single order.

Q. Correct, and I understand that. What I'm saying is that there may have been traders who wanted to buy or sell 200 or more contracts at the same time, but did it by the Iceberg method of entering smaller orders sequentially?

A. So when you say "smaller orders," do you mean smaller displayed to the world orders?

Q. Correct.

A. In any event, the answer is it's certainly possible, if somebody wanted to accumulate a big position and used many small orders rather than one big order. That's certainly possible.

Q. And you have stated in here that that is an effective method of buying or selling large

numbers of contracts?

A. Well, what I did say is that you -- electing to use the Iceberg method, based on economic reasoning in my analysis of an equity market that has a similar option can be an effective method of getting trades executed without moving the market as much as you would if you exposed your orders.

Q. So the only trades encompassed in the 143 large lot orders by other marketing participants were trades of 200 or more contracts entered at the same time not via the Iceberg method?

A. Or orders of 200 or more. Trades are separate, a separate issue, yeah.

Q. Separate issue.

A. Orders of 200 or more, and again, on the last part I'm not certain because I'm not certain -- again, the fact that something was not displayed to traders in realtime is not necessarily the same as saying that it was not recorded by the exchange in their database. So I'm using an exchange database, so an Iceberg order says you don't display this to the world in realtime, other than the tip of the Iceberg, but that doesn't necessarily mean it's not in the database.

Q. You don't know?

Q. That would be an example of what you're talking about in paragraph (v)?

A. That would be an example. My analysis says that, in fact, that's what he typically did.

Q. Yeah, and so -- but wasn't it also true that he typically already was either long or short in the same direction as his large lot order?

A. I didn't quantify that.

Q. Would that be something you'd want to know?

A. Doesn't seem terribly central to me. First of all, it's difficult for me to do without actually seeing his account statements. In other words, I didn't know his overnight positions. That was not necessary for any of the analysis I did, but it would be necessary for the analysis you propose. I don't think it's particularly useful. I think nothing speaks louder about what somebody intends than what they do, and what he did was trade in the opposite direction of his large orders.

Q. But he traded in the opposite direction of existing positions. Wouldn't that be relevant?

A. I guess I don't see the relevance. Whether this was done to liquidate an existing position or put on a new position, in my mind the

question of whether it's legal, which is not for me to decide.

Q. It's not a question of whether it's legal. Is it an indication that he didn't intend to trade?

A. If it's happening again and again and again, it would be consistent with the interpretation that he didn't intend to trade on one side. Nothing speaks louder about intentions than actions.

Q. If he routinely places orders at different prices and the market moves in a direction which leads him to execute one trade and cancel the other, you're saying that that would be indicative of manipulation?

MR. RIDNOUR: Objection; asked and answered.

A. I'm not opining on manipulation. Now, if it was random on the buy side and the sell side, that would be one thing. If it was systematically on one side versus the other, then I would ask, "Well, what's this doing to other people's order strategy? What's this doing to the liquidity in the market? What's this doing to bid-ask spreads? What's this doing to volatility in the market?" Those would all be relevant questions that I would want to assess.

Q. So what did his trading do to liquidity in

the market?

A. Slightly widened the bid-ask spreads around the times that he was entering his large orders.

Q. Slightly by how much?

A. I'd -- report estimates.

Q. Is it fair to say less than a tenth of a penny, on average?

A. There's coefficients in the tables, and right offhand I can't convert that into a penny amount for you. I think it's safe to say moderate, modest effects on the bid-ask spread, on average, across all his orders. Probably table 12 is probably the one you're looking for.

Q. I'm looking at the text here.

A. Okay. Probably page 29.

Q. I think paragraph 62 on page 26.

A. In 62, I think I'm focusing on the level of prices rather than spreads.

Q. Okay. Is it fair to say that for every 1,000 net contract entered by Moncada, the increase was about a tenth of a penny or less?

A. So I'm just reading the paragraph 62 here. So some of the coefficients .096, prices were measured in cents. Those are contracts, so for each

thousand contracts we have an increase of .09 cents, correct, yes.

Q. And --

A. I should clarify that's on average, across all.

Q. And how are wheat contracts quoted? In increments of what?

A. The tick size I've mentioned in here, I'm not recalling offhand.

Q. If I suggest 2-and-a-half cents; is that correct?

A. That sounds correct.

MR. RIDNOUR: I think it's a quarter cent.

MR. ASCHE: I'm sorry, quarter cent.

THE WITNESS: I know I have it written down here somewhere.

MR. ASCHE: See, you can get a witness to say anything.

THE WITNESS: I know I have it written down here at some point.

MR. ASCHE: I think it's a quarter cent.

THE WITNESS: Quarter cent, yeah.

Q. (By Mr. Asche) So the average movement was less than a tick?

A. Per thousand.

period of time. He was an active trader.

Q. And that would not even be unusual for an average trader; correct?

A. I guess it depends on the average trader. I think, you know, my sense if there's a lot of traders who just dabble a little bit in the market. But there will be other active traders, and you will find cases where traders are both buying and selling in a given period.

Q. Now, in the 20-second interval that you say there was some effect on price, even though it was less than quantifiable as a bid --

A. I wouldn't agree it's less than quantifiable. It was quantifiable.

Q. Well, it was less than the minimum measurement on the --

A. Per thousand contracts.

Q. Correct.

A. Over the periods where he put in many thousands of contracts.

Q. Yes. So were you able to determine what Mr. Moncada did in that 20-second interval?

A. I'm sorry, which 20-second interval do you have in mind in particular?

Q. The interval that you referred to in

Q. And by far most of them?

A. Indeed. It's out 10 minutes, 30 minutes, 60 minutes later that we see the largest cumulative trading in the opposite direction.

Q. And you never quantified the effect on the market of these large lot orders that far out?

A. What do you mean "that far out"? In terms of did his orders affect prices 60 minutes out?

Q. Yes.

A. Yeah. The data, there's just not enough information in the data to reliably say what he did to prices that far out.

Q. Understood. So coming back to the text on page 4, you have a lot of -- you discuss what happens within 2 minutes, within 10 minutes, within 30 minutes, within 60 minutes. Do you see that?

A. Yes.

Q. But you have no information as to whether those trades in the opposite direction benefitted from any price change associated with his large lot orders?

A. That's correct. My assessment of his effect on the market shows short-term effects. I cannot say whether he affected the market that far out.

way off the market?

A. Yeah. The more aggressive your prices, the more competitive your prices -- you used the phrase "greater risk of getting hit." Another way to say the same thing is a there's a greater chance of executing your trade, which, in fact, I've documented in a stock market.

Q. And Moncada's bids were extremely aggressive; right?

A. That's why it's all the more remarkable that he had such low execution rates on orders that we would normally expect to have high execution rates.

Q. Well, some traders bid way off the market and keep their bids out there, and Moncada bid at the market and cancelled frequently. Is that fair to say?

A. Those facts seem accurate, yes.

Q. In paragraph 27, you say: "Although Moncada most often cancelled his orders quickly, they were visible long enough to generate responses from" --

A. I'm sorry, which paragraph are you reading?

Q. Twenty-seven, I'm sorry, page 13.

disseminates, in realtime, the top ten levels of the book.

Q. But the cancellation is also visible?

A. Correct.

Q. So he's not -- what the market sees is he's ordered and cancelled?

MR. RIDNOUR: Object to form.

A. Correct. Someone who's paying attention would see --

Q. (By Mr. Asche) A spoofer --

A. -- a cancellation.

MR. RIDNOUR: Let him finish answering his question, please.

MR. ASCHE: I'm sorry.

Q. (By Mr. Asche) A spoofer leaves his buy order above the market out there and allows it to be hidden; correct?

A. That does not seem right to me. First of all, it does not necessarily have to be above market. In their example it's above market, but I don't see that that's necessary.

Second, leaving it out there, it's unclear. A spoofer does not want their order to execute. If you leave it out there a long time, the risk of execution goes up. So it's not at all clear

A. So on table 12 I'm conducting additional analyses to assess whether Mr. Moncada's large orders affected the market. So a regression analysis here, a little simpler than GARCH, but, broadly speaking, similar, letting the data speak, using all the data, not eyeballing.

So in panel A, what we're assessing is whether his large orders were associated with changes in the bid-ask spread on the CBOT.

And in panel B, I'm assessing -- I basically look at new order entry by everybody except Moncada to see if his orders affect other people's order submissions. And that's particularly relevant because the spoofing strategy says that that's the goal, actually. My understanding of the spoofing strategy is that that's the goal, to get other people -- to fool people and get them to enter other orders.

Q. But for that strategy to work, you have to enter your order at a time when the spoofing strategy is effective.

MR. RIDNOUR: Object to form.

Q. (By Mr. Asche) You can't do it the next day?

MR. RIDNOUR: Object to form.

A. I mean, the idea is to get -- the idea is you put in a buy order to fool other people and get them to put in buy orders also. Then you would sell into it. That's my understanding of a spoofing strategy.

Q. (By Mr. Asche) But you have to effect your sell at a time when the market has reacted to your spoof.

A. To be successful, yes. I mean, more generally, if you fail to fool the market, it's not going to work.

Q. Right.

A. But if you do attract more orders on the same side, it's consistent with the idea that to some extent you fooled the market. And that's actually what panel B, the data, suggests, that around the time that Mr. Moncada put in large orders, he attracted net order entry on the same side around the time that he did it.

Q. Did you determine whether or not Mr. Moncada placed his large buy orders because he expected more orders on the same side?

MR. RIDNOUR: Object; calls for speculation.

MR. ASCHE: I asked whether he tracked it.

Q. Enron we talked about. Internet Law Library?

A. Short selling. It was a short-selling case. The assertion was that some people had used short-selling strategies to artificially depress stock prices. I was employed in that case by the plaintiffs.

MR. ASCHE: Okay. I have no further questions.

MS. DIAMOND: Can we take a brief break?

MR. ASCHE: Of course.

(Recess)

MR. RIDNOUR: Back on the record.

EXAMINATION

BY MR. RIDNOUR:

Q. Dr. Bessembinder, I've got two clarifying questions. Earlier you testified that traders may use Iceberg orders to get a better price. What do you mean by a "better price"?

A. So the Iceberg orders, my understanding of the economics and also what I've documented in my study of stock exchange trading in Paris, is Iceberg orders are used to reduce the extent to which the price will run away from your order, so somebody who

wants to buy is worried that the price could head up before they can get their buy order executed. So the Iceberg function is used to reduce the extent to which other people know that you have an interest in doing a big buy, and hopefully you can get your big buy done without pushing the price up. So you're doing it to reduce the price impact of your trades.

Q. And you also testified earlier that there is no volatility if the price moves one tick at a time. What do you mean by "moving one tick at a time"? And why does that mean there's no volatility?

A. So hopefully the record will show that I stated something slightly different than that, and that's that if the price always went up by one tick, that would be no volatility, because volatility is computed around the average. So if it always goes up by one tick, then the average is one tick up. And if it's always up one tick, there's no volatility around the average. So that's what I intended to say. Hopefully that's what the record shows I said.

Now, to broaden that a little bit, you could have a market move in one-tick increments and still you have a very volatile market. It depends. So if you have up-and-down moves, you have volatility, and it depends on how many moves there

REPORTER'S CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, Kathy Morgan, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That prior to being examined, the witness, HENDRIK BESSEMBINDER, was by me duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in stenotype on December 4, 2013 at the place therein named, and was thereafter transcribed and that a true and correct transcription of said testimony is set forth in the preceding pages;

I further certify that, in accordance with Rule 30(e), a request having been made to review the transcript, a reading copy was sent to the witness for him to read and sign, and the original transcript will be delivered to Mr. Richard Asche for safekeeping.

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 9th day of December, 2013.

Notary Public
KATHY H MORGAN
Commission Number 610133
My Commission Expires
May 24, 2015
State of Utah

Kathy H. Morgan, CSR, RPR
My commission expires May 24, 2015

Case: CFTC v. Moncada, et al.
Case No.: 12-CV-8791
Reporter: Kathy Morgan
Date taken: December 4, 2013

WITNESS CERTIFICATE

I, **HENDRIK BESSEMBINDER**, HEREBY DECLARE: That I am the witness in the foregoing transcript; that I have read the transcript and know the contents thereof; that with these corrections I have noted this transcript truly and accurately reflects my testimony. SEE ATTACHED

PAGE-LINE	CHANGE/CORRECTION	REASON

________ No corrections were made.

I, HENDRIK BESSEMBINDER, HEREBY DECLARE UNDER THE PENALTIES OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA AND THE LAWS OF THE STATE OF UTAH THAT THE FOREGOING IS TRUE AND CORRECT.

HENDRIK BESSEMBINDER

12/23/13
Date Signed

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Page/Line	Correction	Reason
p. 15, line 1	"lag files" should be "log files"	Transcript is in error
p. 16, line 22 and line 23	"lag files" should be "log files"	Transcript is in error
p. 20, line 4	"reasoning in my analysis" should be "reasoning and my analysis"	Transcript is in error
p. 20, line 12	"Or orders" should be "Orders"	Transcript is in error
p. 60, line 10	"going on" should be "Going in"	Transcript is in error
p. 64, line 5	"older trader" should be "alert trader"	Transcript is in error
p. 79, line 19.	"I'm not sure if there's" should be "I'm not sure. There is"	Transcript is in error
p. 84, lines 1 to 3.	"I shouldn't say beginning of the day since they've pointed the day" should be "I should have said beginning of the day to that point in the day"	Transcript is in error
p. 92, line 12	"by measuring" should be "I measure"	Transcript is in error
p. 93, line 4	"like to look at his buy order, his sell orders" should be "look at his buy orders less his sell orders"	Transcript is in error
p. 94, lines 12 and 13	"that's a value" should be "the absolute value"	Transcript is in error
p. 100, line 25.	"level of crisis" should be "level of prices"	Transcript is in error
p. 101, line 19.	"I traded in" should be "he traded in"	Transcript is in error